

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 versus

5 PETER LIOUNIS,

6 Defendant.

12 cr 350(ILG)

U.S. Courthouse
225 Cadman Plaza East
Brooklyn, NY 11201

7 August 20th, 2014
8 11:00 a.m.

9 TRANSCRIPT OF CRIMINAL CAUSE FOR SENTENCING

10 BEFORE THE HONORABLE I. LEO GLASSER,

11 UNITED STATES DISTRICT JUDGE

12 APPEARANCES

13 For the Government:

LORETTA E. LYNCH
United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
BY: DANIEL SPECTOR, ESQ.,
JUSTIN LERER, ESQ.
Assistant U.S. Attorneys

17 For the Defendant:

PETER LIOUNIS
PRO SE

19 Also present:

FRANK MARSIGLIANO, USPO
SPECIAL AGENT DELISIO
AGENT PURNAVEL, USPS

21 Court Reporter:

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24 Proceedings recorded by mechanical stenography. Transcript
25 produced by computer-aided transcription.

1 THE CLERK: Criminal cause for sentencing, United
2 States versus Peter Liounis. Counsel?

3 MR. LERER: Justin Lerer and Daniel Spector for the
4 government. Good morning, Your Honor.

5 MR. SPECTOR: Good morning, Your Honor.

6 THE COURT: Good morning.

7 (Defendant enters.)

8 THE COURT: Good morning, Mr. Liounis.

9 THE CLERK: State your name, please.

10 MR. LIOUNIS: Peter Liounis.

11 THE COURT: We're ready to proceed?

12 First matter I'd like to address and deal with is the
13 Rule 33 motion which Mr. Liounis has filed. I don't know
14 whether you've seen a copy of my memorandum and order yet.

15 MR. LIOUNIS: (Shakes head negatively).

16 THE COURT: Let me read it into the record.

17 The defendant was found guilty on February 5th, 2014,
18 on all counts of a nine-count indictment at the conclusion of a
19 seven-day trial by jury. On March 4th, 2014, motions pursuant
20 to Rules 29 and 33 --

21 By the way, do you have a copy of this? Do we have
22 copies?

23 THE CLERK: Yes.

24 THE COURT: Can you give Mr. Liounis a copy of it?

25 MR. LERER: (Hands document to the defendant.)

1 MR. LIOUNIS: Thank you.

2 MR. LERER: You're welcome.

3 THE COURT: A copy of it was mailed to him at the MDC.

4 In an order dated April 11th, 2014, his motions were
5 denied. That's docket entry 214. On July 17th, 2014, the
6 defendant, acting pro se at that time, filed a 28 page single
7 spaced motion, stated to be pursuant to Rules 33, 48(b), and
8 12(b)(3) of the Federal Rules of Criminal Procedure. It would
9 suffice to simply declare that his motions are denied. His
10 Rule 33 motion was previously denied, as indicated above; his
11 12(b)(3) motion is untimely, having to be raised by its express
12 terms, before trial; and his Rule 48(b) motion has been
13 repeatedly raised before and dismissed in a Memorandum and
14 Order dated December 18th, 2013, docket entry 152. It is worth
15 noting that as of that date, this Court wrote that "the
16 defendant had thus far filed 22 pro se applications for legal
17 relief in 130 typed single-spaced pages to which 333 pages of
18 exhibits were attached, numbering 463 pages in all. This last
19 motion is of a piece with those.

20 In a letter response to this motion, the government
21 charts the docket entries and the transcript references
22 rejecting the claims repeatedly made there and made again here.

23 A series of claims for relief based on asserted
24 improprieties and errors are trial-related. Each of those
25 claims is frivolous and meritless. In its response to them,

1 the government briskly establishes their meritlessness and the
2 Court fully endorses and incorporates that response in pages
3 five and six of docket entry 237. This Court will, however,
4 address his claim of ineffective assistance of counsel.

5 The Complaint in this case was filed on March 1st,
6 2012. On April 18th, 2012, the Court appointed Kelley Sharkey
7 to represent him pursuant to the Criminal Justice Act. Ms.
8 Sharkey promptly embarked upon her representation of him, with
9 a review of literally thousands of pages of discovery material,
10 familiarity with which was necessary to inform the filing of
11 the appropriate pretrial motions.

12 On December 21st, 2012, she did file an extensive
13 series of motions on his behalf. At about the same time, on
14 December 20th, 2012, the defendant filed a document styled,
15 "Unequivocal Declaration to Proceed pro Sir Pursuant to Faretta
16 v. California." It's docket entry number 38.

17 In that submission, citing sections of the United
18 States Code, Federal Rules of Evidence, Rules of Criminal
19 Procedure and Supreme Court cases, he wrote, quote, that he "is
20 literate, competent and understands the facts of the case and
21 is versed in basic legal research and pleadings crafting, as is
22 evidenced by his pro se declaration and motion," closed quote.

23 His claimed competence in this regard is obviously
24 based upon the experience he gained from his conviction of
25 essentially the same crimes with which he is charged here, in

1 the Southern District of New York just a few years before.

2 At a hearing on January 7th, 2013, the Court found him
3 competent to waive counsel, which he insisted upon doing,
4 despite the Court's efforts to have him reconsider that
5 decision and have him understand that it was unwise. The
6 transcript of that hearing is informative and it is found in
7 docket entry number 206, dated January 9th, 2013.

8 I'm sorry. On January 9th, 2013, Michael H. Gold,
9 Esquire, was appointed to assist him as standby counsel. It's
10 docket entry 40. Mr. Gold continued to serve in that capacity
11 diligently and faithfully for more than a year.

12 Three days before the trial was scheduled to commence,
13 on January 27, 2014, the defendant, acknowledging his inability
14 to represent himself at trial, requested a continuance to
15 permit his family to retain counsel to represent him, and for a
16 continuance thereafter to permit new counsel to familiarize
17 himself with the case. I denied his request, but granted his
18 desire to withdraw his waiver of counsel.

19 I succeeded in prevailing on Mr. Gold, given his
20 familiarity with the case, to accept my appointment to
21 represent him at trial. His representation of the defendant on
22 such short notice throughout the trial was exemplary. Given
23 the overwhelming evidence against the defendant which included
24 a mountain of exhibits and the moving testimony of the victims
25 of his massive sophisticated fraud, Mr. Gold's vigorous

1 defense, insistently probing the armored evidence against the
2 defendant, was commendable. The citation of *Stickland*
3 *v. Washington*, 466 U. S. 668, would be misplaced here as being
4 plainly inapplicable, as even the most cursory reading of it
5 would quickly establish. His claim of ineffective assistance
6 of counsel is dismissed, as is his motion in its entirety.

7 Now, Mr. Liounis has filed a number of objections to
8 the pre-sentence report, and I think we should address it now.

9 MR. LIOUNIS: Excuse me, Your Honor. I just want to
10 quickly state, I can respond to this in the form of a
11 reconsideration, is that correct?

12 THE COURT: Respond to what?

13 MR. LIOUNIS: To the motion. If I want to file a
14 motion for reconsideration, I'm allowed to, is that correct?

15 THE COURT: Mr. Liounis, you can file anything that
16 you wish to file.

17 MR. LIOUNIS: Okay. I just -- before we get started,
18 I need to put something on the record.

19 THE COURT: Go ahead.

20 MR. LIOUNIS: I've been working the past three weeks
21 very, very hard for the Fatico hearing and the sentencing
22 issues. And what I do is, I input all my findings into the
23 computers that we use at MDC. In the last two days, the
24 computers have been down and when it did come up, we had
25 officers trying to have someone come refill the printer and I

1 was unable to get my -- my actual notes that I do need for the
2 hearing.

3 Moreover, I'm not sure -- maybe if I was mistaken, but
4 I had thought that we had scheduled this for the 21st of this
5 month originally. Again, I'm not sure if I'm wrong, but I
6 wrote that down. I thought that's what I heard on the 24th,
7 when we were here.

8 And today is Wednesday. We would go to the law
9 library on -- my floor goes to the law library, which I would
10 have had access to a different computer and different printer
11 to pull up these necessary documents for the proceedings, but I
12 was brought to court. So I'm just a little confused as to -- I
13 thought we had a -- tomorrow. Was it the 21st?

14 THE COURT: You're obviously mistaken, Mr. Liounis.

15 MR. LIOUNIS: Was it the 20th?

16 THE COURT: Yes.

17 MR. LIOUNIS: Okay. Well, in any event --

18 THE COURT: Everybody else seems to have understood
19 that it was the 20th because they're all here.

20 MR. LIOUNIS: Like I said, I apologize. But the last
21 two days, regardless, I had officers helping as well, trying to
22 get somebody from that department to come up and get the
23 computers going, and we were unsuccessful.

24 THE COURT: Mr. Liounis, you've filed five pages of
25 objections to the pre-sentence report. Those objections are

1 clearly stated in your five-page submission, and I think that
2 they're clearly enough stated for us to proceed to address
3 them.

4 You'll have an opportunity to say whatever else you
5 think is relevant with respect to those, but you've made the
6 objections to the pre-sentence report. You obviously looked at
7 the pre-sentence report and examined it carefully, given the
8 number of objections that you've taken to it. So why don't we
9 look at the objections that you filed --

10 MR. LIOUNIS: The problem --

11 THE COURT: -- to the pre-sentence report?

12 MR. LIOUNIS: The problem I have is the research that
13 I have done is more or less cases and stuff in support of these
14 objections.

15 THE COURT: Well, let's look at them, Mr. Liounis, and
16 we'll see whether any of your objections require any citation
17 of authority or anything further by way of support. Objections
18 to the pre-sentence report are generally addressed to factual
19 matters in the pre-sentence report, if a person believes they
20 were inaccurate.

21 I mean, there's nothing in the pre-sentence report
22 which raises questions of law except perhaps with respect to
23 relevant conduct which you're quite familiar with, and with
24 respect to the Guideline calculation. We'll get to that.

25 MR. LIOUNIS: Your Honor, respectfully, there was also

1 an issue in the Rule 33 motion that you didn't address, and
2 that had to do with recusal. I had mentioned some points in
3 that motion why I felt that maybe a recusal would be
4 appropriate, and they were not addressed in your response at
5 all.

6 THE COURT: I think you have made a motion to recuse
7 me a long time ago, as I recall it, and I think the motion was
8 denied at that time.

9 MR. LIOUNIS: But I had added some new information
10 that I thought should be addressed.

11 THE COURT: Mr. Liounis, if you wish to file something
12 else, you're free to do it.

13 Let me proceed with your objections to the
14 pre-sentence report. Now, I'll let the government respond to
15 them and then go through them.

16 MR. LIOUNIS: I've got to look for it. I'm sorry.

17 THE COURT: It's your docket entry 238, Mr. Liounis.
18 It's a five-page submission.

19 MR. LIOUNIS: Your Honor, respectfully, I just want to
20 make sure you -- did you just mention that you would like me,
21 if I wanted to file another recusal motion? Is that what I
22 understood?

23 THE COURT: Mr. Liounis, your recusal motion is kind
24 of late. Trial has been completed. I think you can raise
25 whatever infirmities you think existed at the trial, including

1 any prejudice or bias you believe the Court may have evidenced.
2 Any claim that you may believe you have with respect to the
3 fairness of the trial are matters which you can raise on
4 appeal. They're not matters for reconsideration at this point.

5 The trial has been over. We're here for the purpose
6 of sentencing this morning. That's what we're here for. Now,
7 when this proceeding is concluded, you can -- and I'll advise
8 you about it in due time -- appeal the conviction and appeal
9 your sentence, and if there is anything that you believe was
10 unlawful or was illegal or was for any other matter or reason
11 erroneous, that would be a matter for the court -- for the
12 Second Circuit Court of Appeals to consider, and you can raise
13 it. But that's not a matter which is appropriate here. It's
14 kind of late in the day to be recusing me.

15 MR. LIOUNIS: Before we get started --

16 THE COURT: Yes?

17 MR. LIOUNIS: -- I have the memorandum. Would you
18 like me to address it verbally or would you like me to put it
19 in writing?

20 THE COURT: What memorandum are you referring to?

21 MR. LIOUNIS: The one that you just read into the
22 record.

23 THE COURT: Yes.

24 MR. LIOUNIS: There was some misstatements that I
25 think should be corrected maybe before -- if it's okay --

1 before we move forward.

2 THE COURT: Okay.

3 MR. LIOUNIS: On page one, you had mentioned Rule
4 12(b)(3) motion as untimely, having to be raised by its express
5 terms before trial. I would just like to put on the record
6 that I have raised 12(b)(3) on more than one occasion prior to
7 trial. I have without a doubt preserved my record of 12(b)(3),
8 and probably most of those motions that I filed pretrial.

9 THE COURT: Mr. Liounis, I'm referring to the 12(b)(3)
10 motion that you raised in your last submission.

11 MR. LIOUNIS: Oh.

12 THE COURT: You combine a Rule 33 motion with a Rule
13 12(b)(3) motion, with a Rule 48(b) motion. Mr. Liounis, I've
14 got your document. It's docket number 227. It's 28 pages.
15 And the introduction reads, "Peter Liounis brings this pro se
16 motion pursuant to Federal Rules of Criminal Procedure, 33,
17 48(b), and 12(b)(3)."

18 And what I have said in that Memorandum and Order is,
19 making a 12(b)(3) motion is untimely. You've made a lot of
20 12(b)(3) motions, I think on various occasions throughout the
21 trial, and they've been ruled on.

22 What else is it that you want to --

23 MR. LIOUNIS: Well, it states that there was a -- the
24 Complaint in this case was filed March 1st, 2012. That
25 Complaint, I believe, had nothing to do with me. Maybe that

1 could be explained because the Complaint filed in this case was
2 filed on April 17th, 2012.

3 THE COURT: If it is an error, Mr. Liounis, there's
4 nothing substantive about it and it doesn't affect the
5 determination I made.

6 MR. LIOUNIS: The reason I asked is, there was a
7 Complaint filed around that time frame which related to a
8 different defendant, and I'm wondering if perhaps there was a
9 relation.

10 THE COURT: What else?

11 MR. LIOUNIS: (No response.)

12 THE COURT: What else?

13 MR. LIOUNIS: Okay. The part where we speak about
14 Attorney Sharkey, I just want to make it very clear that at the
15 time when Ms. Sharkey -- when I agreed to proceed pro se, Ms.
16 Sharkey and I were at terms where we couldn't even be in the
17 same room, and I was not offered new counsel, Your Honor. I
18 was told to either stay with Ms. Sharkey or go pro se, and I
19 just -- I think that's very important.

20 THE COURT: Mr. Liounis, I think we've been through
21 that more than once. My recollection is, we've been through
22 that at least two times, maybe more, and I've written on that
23 at least two times because you've raised it repeatedly.

24 What else?

25 MR. LIOUNIS: Okay. As far as representation for

1 trial, I think it's important that the record states that my
2 family did retain that attorney. We retained her and -- for
3 trial, and then I had asked for a continuance to give her time
4 to prepare for that trial. She was retained with funds.
5 Because I'm indigent, these were funds that were donated from
6 family and friends. And she was my counsel of choice for
7 trial. I just want to make that very clear.

8 THE COURT: Mr. Liounis, I think that that's been
9 addressed as well, and it's addressed in this very Memorandum
10 and Order. I make that very plain that I denied your request
11 for a continuance. It's there.

12 MR. LIOUNIS: And just lastly --

13 THE COURT: Yes?

14 MR. LIOUNIS: -- with Mr. Gold, as far as Mr. Gold, I
15 think it's very important that it's stated that Mr. Gold
16 himself, when he assumed the role of trial counsel, made it
17 very clear that --

18 THE COURT: He didn't assume it. I appointed him to
19 represent you.

20 MR. LIOUNIS: Correct.

21 THE COURT: Yes?

22 MR. LIOUNIS: Mr. Gold himself did mention to the
23 Court that with three days to prepare for trial, he was
24 uncomfortable taking this case because as standby counsel, he
25 did not -- he did not review discovery or really never looked

1 at anything as far as the case was concerned, which has really,
2 really affected, you know, my representation at trial.

3 THE COURT: Mr. Liounis, these are all matters you can
4 raise on appeal, if that's what you propose to do or will do at
5 some future time.

6 Anything else?

7 MR. LIOUNIS: Okay. I have a few issues that I might
8 need for the hearing -- if that's being held today, the Fatico
9 hearing?

10 THE COURT: Yes.

11 MR. LIOUNIS: There were -- there were a couple of
12 witnesses that I think were very important that I would like to
13 have -- to somehow call for the defense. One of them is my
14 Probation Officer, Adrianna Corb, my supervised release
15 officer, and the other is my case manager at MDC. She's -- her
16 name is Ms. Campbell and Ms. Campbell and I recently had a
17 meeting with the warden, and I think that what we discussed and
18 what we discovered really needs to be addressed in this court
19 prior to sentencing.

20 THE COURT: Now, mr. Liounis, the Fatico hearing is
21 addressed to a very discreet item. The Fatico hearing is
22 addressed simply to the question of relevant conduct, nothing
23 else.

24 MR. LIOUNIS: Right.

25 THE COURT: And I don't know what your probation

1 officer would have to do with respect to relevant conduct or
2 what anybody at the MDC would have to do with the issue of
3 relevant conduct. And with respect to whether or not a hearing
4 is or is not necessary, that's a matter for me to determine.

5 MR. LIOUNIS: Because what I'm trying to say is the
6 relevant conduct at hand has to be relevant to something. And
7 whatever that relevant conduct is related to is very important
8 as far as the relevant conduct, and Ms. Corb and Ms. Campbell
9 could be very helpful to explain to the Court, there are no new
10 charges in the BOP against Peter Liounis, that there is nothing
11 there.

12 And I think it's very important that the Court
13 understand a few times during the proceedings, even Your Honor
14 had said that I had violated my supervised release, and that is
15 not the case. During my bail hearing, you had mentioned that,
16 and that is not the case.

17 And like I said, Ms. Campbell -- Ms. Campbell has
18 thoroughly tried to help me as far as, you know, why I'm here.
19 I have sat down and asked her why am I here, for what reason?
20 And herself and her records have indicated that there is no new
21 indictment in the Eastern District of New York at all, and that
22 I am here for my own case, and she's made that very clear.

23 And I think it's important before we proceed that I
24 let the Court know that I finished my supervised release in its
25 entirety, and if the government filed any kind of violation or

1 anything after the fact, again, Your Honor, that's -- this
2 Court would not have jurisdiction on Peter Liounis, to hold
3 punish or try Peter Liounis at all.

4 THE COURT: Mr. Liounis --

5 MR. LIOUNIS: Don't forget, I received a violation
6 notice in the mail which I have -- I have with me and I have
7 entered in the court, which is after supervised release ended.

8 THE COURT: Mr. Liounis, you're not here for any
9 charge or violation of supervised release. You're here because
10 you were found guilty after a seven day trial by a jury of 12
11 people, who unanimously found that you were guilty beyond a
12 reasonable doubt of nine counts of an indictment. That's what
13 you're here for.

14 Relevant conduct, Mr. Liounis, as I believe you're
15 fairly well aware, is conduct which has a bearing upon
16 sentencing. I am very familiar with the fact, Mr. Liounis,
17 that you're not here based upon any conviction of the Rockford
18 matter and you're not here based on any conviction of the UBS
19 matter, but there is a basis upon which claims made that you
20 were involved in the Rockford matter, the UBC matter -- or UBS
21 matter, and that's relevant conduct in the sense that it
22 reflects a course of conduct, a common scheme, of those matters
23 with all the security fraud that you were convicted of here,
24 namely, Grayson Hewitt. You were not convicted here of
25 Rockford or UBS.

1 Now, relevant conduct is simply for the purpose of
2 determining whether that conduct which it is alleged you were
3 involved in in the Rockford and UBS matters is relevant for
4 purposes of sentencing. That's all we're here for. It's
5 nothing to do with the supervised release or about a violation
6 of supervised release. You're here to be sentenced solely for
7 the nine counts of which you were found guilty after a trial.

8 I'm going to consider the objections that you've
9 raised to the pre-sentence report because you filed five pages,
10 but I think the last page is simply a signature page.

11 MR. LIOUNIS: All right. I'll do my best.

12 THE COURT: So we'll go further and the government can
13 address them. I'll address them and you'll have an opportunity
14 to respond.

15 On page two, you've objected to the use of aliases
16 which you claimed you never used.

17 Does the government want to respond to that?

18 MR. LERER: Your Honor, the defendant used all of
19 these aliases, the first four in Grayson Hewitt, Rockford, UBS.
20 "Lefty" was an alias from one of the Southern District
21 convictions.

22 THE COURT: Now, Mr. Liounis, with respect to aliases,
23 aliases are not improper if the government's proof establishes
24 that there was use of aliases and the aliases have some
25 relevance to the crimes with which you were charged.

1 There was evidence during the course of this trial
2 that you used the alias of Mark Anderson. There was evidence
3 at this trial that you used the name of James Weston. There
4 was evidence during the course of this trial that you used the
5 name I think it was of Andrew Black -- or I don't know what the
6 first name was -- Black. So the use of aliases in the
7 indictment were not prejudicial and were perfectly properly
8 used.

9 Now, with respect to pages three and four of your
10 objections, which are paragraphs one through nine --

11 MR. LIOUNIS: Your Honor, before we move on -- I'm on
12 the aliases. When will I have a chance to prove otherwise? Is
13 it now or is it during the hearing?

14 THE COURT: To prove otherwise what, that you were not
15 Mark Anderson?

16 MR. LIOUNIS: James Weston, Andrew Black -- I mean, I
17 have factual proof that that's not the case.

18 THE COURT: Well, all right, Mr. Liounis. You can
19 raise whatever arguments you want to raise on appeal.

20 Now, Mr. Liounis, you've been through three
21 convictions in the Southern District. You've been through a
22 bank robbery conviction which is -- at least it's referred to
23 as a bank robbery. We'll get to that eventually. You were
24 convicted of a Southern District indictment of securities
25 fraud. You were convicted on an indictment in Nevada which was

1 transferred to the Southern District of New York on securities
2 fraud and the money laundering and conspiracies to commit money
3 laundering. You were convicted in all those crimes.

4 Now, you know, Mr. Liounis, that after you've been
5 convicted of a crime, you just can't retry it. It's over.
6 You've had a trial. You may believe it was unfair. It's
7 something that you can argue on appeal. You can argue on
8 appeal that your lawyer was incompetent. You can argue on
9 appeal that the judge was biased. You can argue on appeal that
10 all the evidence that was introduced against you was false,
11 that the jury -- you can argue anything that you think was done
12 wrongly, but this not the time for that. Right?

13 Now, let's move on to your next paragraph, paragraph
14 129, claiming your indictment was void. "Peter Liounis wasn't
15 charged by the grand jury. The indictment is fraudulent." I
16 think you've raised those charges I don't know how many times
17 before, and I think that was all addressed before.

18 With respect to the invalidity of an indictment,
19 that's something that could have been raised and you did in
20 12(b)(3). They're not matters which have any bearing upon the
21 pre-sentence report at this point. The indictment, all of that
22 is over. You were tried on an indictment. The jury found you
23 guilty of the crimes that you were charged with. It's late in
24 the day to argue now that the indictment was fraudulent. You
25 can argue that in the Court of Appeals.

1 And in paragraph 11, you argue that the underlying
2 indictment is open, which supports your assertion of the
3 indictment being void -- again, kind of late in the day to be
4 challenging the validity of an indictment here. You can argue
5 that on appeal, if you think it's appropriate.

6 Paragraphs 12 to I think 26 or thereabouts, you're
7 objecting to every word in the pre-sentence report because you
8 claim you're not Mark Anderson. Again, Mr. Liounis, that has
9 been determined by a jury of 12 people following a trial. So
10 your objections in that regard really have no bearing upon the
11 validity of the pre-sentence report.

12 You denied post-arrest statements. We've had
13 suppression hearings with respect to those post-arrest
14 statements. We had testimony from Special Agent DeLisio and
15 Ms. Purnavel, I think it was, postal inspector, with respect to
16 whether the statements that you made were or were not made
17 after you were given your Miranda warning. We've been all
18 through that. And it's late in the day to be arguing that
19 here.

20 You denied a package went to Mike Sloli as being
21 yours. Again, that was dealt with on trial. I think there was
22 a video of a postal truck coming in front of your house,
23 someone coming out to pick up a package. We've been all
24 through that, and so that's not relevant here.

25 Paragraph 27, you never spoke to investors. You're

1 talking about I think Mr. Nissen, are we?

2 MR. LERER: Yes, Mr. Nissen, Your Honor.

3 THE COURT: You never spoke to any of the investors,
4 you claim, because it was Mark Anderson who spoke to them all.
5 Again, that was a matter which was litigated on trial.

6 As far as the bank records showing that Mr. and
7 Mrs. Zahler were paid in full, and that was dealt with on
8 trial.

9 And in paragraphs 20 to 29, you're claiming -- and
10 that will be subject of a Fatigo hearing -- that you're not
11 accountable for the Rockford and UBS scams. The government is
12 withholding exculpatory evidence. Again, if you think the
13 government has withheld exculpatory evidence, that's clearly a
14 matter that you can raise on appeal.

15 Now, paragraphs 30 and 31, you're claiming you were
16 unlawfully arrested. Again, I think -- I don't know that the
17 question of the validity of your arrest was a matter which was
18 raised in the suppression hearing. I think the suppression
19 hearings dealt primarily with post-arrest statements and with
20 respect to validity of arrest warrants and search warrants,
21 Title III warrants. I'm not aware of the fact that there was
22 any claim made with respect to the validity of the arrest, but
23 in any event, that's a matter --

24 MR. LIOUNIS: Can I comment on that one, Your Honor or
25 no?

1 THE COURT: Sure.

2 MR. LIOUNIS: I have asked -- actually -- it actually
3 was raised. The issue of the arrest warrant was raised many
4 times, many times in motions, and I even had a court order from
5 Magistrate Marilyn Go, asking the government to provide the
6 arrest warrant and the affidavit of arrest warrant that was
7 signed on 4-16-12.

8 That arrest warrant was absolutely unlawful. It was
9 false and reckless, and it was never addressed in a district
10 court, and it's very important because that led to an arrest
11 and it led to illegally unconstitutionally-obtained evidence
12 which also affected this trial.

13 There was quite a bit of it which is in the Rule 33
14 motion that shows -- absolutely been suppressed under the fruit
15 of the poisonous tree doctrine, but it was never, ever raised
16 and the government still to today, they still haven't -- they
17 still haven't handed it over and I think that it's important
18 that that objection is made on the record.

19 THE COURT: All right. You're making it.

20 Does the government want to respond to that?

21 MR. LERER: No, Your Honor.

22 MR. LIOUNIS: Would they be willing to turn it over,
23 Your Honor? Could we ask them that?

24 THE COURT: Mr. Liounis, you're way, way past that.
25 Those are matters that you can raise on appeal. Mr. Liounis,

1 this is not the forum for you to contest the validity of your
2 conviction. You can do that and you have done it in your Rule
3 33 motion, you have done it in your Rule 29 motion, all of
4 which has been ruled upon. It's late in the day for that now.

5 Now, you're objecting to a two-level enhancement for
6 obstruction of justice. That obstruction of justice
7 enhancement is predicated upon your testimony at trial, which
8 was perjurious, and with respect to that --

9 MR. LERER: (Hands document to defendant.)

10 MR. LIOUNIS: Thank you.

11 MR. LERER: You're welcome.

12 THE COURT: -- I'm finding that you were untruthful at
13 trial with respect to virtually every material matter that you
14 testified to, and your untruthful testimony was intended to
15 substantially affect the outcome of this case. And so I find
16 that your false testimony at trial warrants a two-level upward
17 enhancement in determining the appropriate Guidelines.

18 I think the leading case on that, Mr. Liounis, is a
19 very interesting one, decided by the Supreme Court of the
20 United States, at *United States versus Dunnigan*, and the court
21 there made an interesting observation. It said, "It's rational
22 for a sentencing authority to conclude that a defendant who
23 commits a crime and then perjures himself in an unlawful
24 attempt to avoid responsibility is more threatening to society
25 and less deserving of leniency than a defendant who does not so

1 defy the trial process. The perjuring defendant's willingness
2 to frustrate judicial proceedings to avoid criminal liability
3 suggests that the need for incapacitation and retribution is
4 heightened as compared with a defendant charged with the same
5 crime who allows judicial proceedings to progress without
6 resorting to perjury."

7 The defendant certainly has a right to testify on his
8 own behalf, but that right doesn't include perjury. The
9 two-point enhancement was entirely proper.

10 MR. LIOUNIS: May I comment on that, Your Honor?

11 THE COURT: Of course, Mr. Liounis. You can comment
12 on anything you think is appropriate to comment on.

13 MR. LIOUNIS: Very quickly. I'm objecting again to
14 that two-level. I think it's very important that it's put on
15 the record that I did testify under oath, and I did testify
16 truthfully -- and more importantly, after Mr. Gold, my
17 attorney, asked me the questions under oath which we discussed
18 and I answered, immediately after, during summation, Mr. Gold,
19 in fact, harmed me by stating the complete opposite of what I
20 testified to under oath, as my attorney, and I referenced that
21 in my motion, that AUSA Lerer, I believe on rebuttal
22 submission, I mean, the first words out of his mouth were,
23 "Okay. So Mr. Gold wants to say that Peter Liounis did it."
24 And he continued throughout the rebuttal summation to use
25 Michael Gold, my attorney's, reckless false admissions of guilt

1 that destroyed me, and I truly believe that that played a very
2 big part in this obstruction of justice two-level enhancement.
3 My own attorney was saying that I'm lying during summation, I
4 don't even know any other way to explain it, except the way it
5 happened. That's it.

6 THE COURT: All right, Mr. Liounis. You made all
7 those points in your submissions, and there was testimony that
8 you gave under oath which I find was entirely perjurious, as
9 you believe that when you signed a waiver of Miranda rights,
10 you thought you were signing a medical waiver of medicines. I
11 believe, Mr. Liounis, and I'm finding that that was a total and
12 complete lie.

13 You testified at one point with respect to a document
14 that was found in your premises that referred to 500K, that you
15 don't know what K referred to. You didn't know that that
16 referred to thousands. That was a total fabrication and you
17 know it. Having served as a broker for I don't know how many
18 years, and having evidence of the kind of sophistication in
19 securities fraud, to testify that you did not know what 500K
20 meant was blatantly perjurious, as was most of your testimony
21 at that trial and you can raise the propriety of a two-point
22 enhancement on appeal.

23 MR. LIOUNIS: Your Honor, may I just address the two
24 issues you made without going deep?

25 I'm sorry. Something was found on my premises? Is

1 that what the Court just said?

2 THE COURT: Whenever it was, it was a document that
3 was offered in evidence.

4 MR. LIOUNIS: Well, I just want to --

5 THE COURT: Whether it was on your premises or in a
6 garbage can, I don't remember.

7 MR. LIOUNIS: And that garbage was shared by
8 everybody, and the fact that Mr. DeLisio says that I signed
9 something, there was an incident that's being denied where I
10 collapsed and I did sign something for medications, and they
11 went to Staten Island to get the medications after I signed
12 that.

13 THE COURT: I'm not talking about signing for
14 medications, Mr. Liounis. I making a finding that when you
15 signed a waiver of Miranda rights, you knew precisely what you
16 were signing and to say that you thought you were signing for
17 medication, I find was a total fabrication and lie.

18 Now, let's move on to --

19 MR. LIOUNIS: I disagree.

20 THE COURT: -- the objections that you've raised.
21 You're raising an objection about the validity of the arrest
22 warrant. We've been through that at the suppression hearing.

23 You were mistakenly characterized as a girl in
24 paragraph 41. I think that should have been changed, if it
25 already hasn't. That was obviously a typographical error.

1 Paragraphs 42 to 66, you are objecting to every
2 determination made at trial, in addition to the two-level
3 enhancement for sophisticated means. You're claiming there
4 should be a four-level downward adjustment for your minor role.

5 Having presided at the trial and having listened to
6 the testimony, I haven't any doubt at all about a two-level
7 enhancement. It was perfectly appropriate. Grayson Hewitt
8 scam was as sophisticated as any scam that I have had occasion
9 to deal with in this courthouse in over 30 years, so I'm
10 denying that objection.

11 You're objecting to your criminal history.

12 MR. LIOUNIS: Well, Your Honor, may I comment on the
13 sophisticated means?

14 THE COURT: Yes.

15 MR. LIOUNIS: This is where my notes, again, were
16 going to be very relevant for relevant conduct and even some of
17 these enhancements.

18 There was nothing at trial -- and I'm not saying that
19 I'm Mark Anderson -- but trial evidence, based on that, it
20 showed that there was absolutely no evidence showing any kind
21 of sophisticated means when it came to that individual, that
22 person, directly or indirectly in any way, shape or form.

23 The trial evidence proved that the person was some
24 type of accomplice or a cold caller or somebody -- again,
25 there's no proof that that person participated in any kind of

1 structure or any bank accounts or anything like that. And
2 again, I'm objecting on sophisticated means, and if I had my
3 notes, I actually have some pretty good cases to back that up.

4 THE COURT: Mr. Liounis, what I'm hearing from you
5 would lead me to conclude without much doubt that your notes
6 would have absolutely no bearing on my determination that a
7 sophisticated means enhancement is appropriate, because what
8 you are telling me -- unless I'm misunderstanding what you're
9 saying -- what you're telling me is that the person who was
10 found guilty of all of the telephone calls, all of the
11 solicitations was not you. It was Mark Anderson. That
12 determination has been made.

13 When we're talking about sophisticated means,
14 Mr. Liounis, we're talking about very slick brochures that have
15 been prepared, describing Grayson Hewitt as a very reputable
16 company, brochures with a page full of photographs of
17 executives and corporate officers at Grayson Hewitt.

18 We're talking about direction to send money to a bank
19 in Greece. We're talking about directions to send money to
20 various places which were represented to be offices of whatever
21 it was that it was represented to be at the time.

22 All of that was very sophisticated. It was not an
23 ordinary -- an ordinary scam. It was a sophisticated scam that
24 resulted in a loss of over \$400 million with respect to Grayson
25 Hewitt alone. So that was an enhancement which was entirely

1 appropriate.

2 Now, what is the objection to the criminal history
3 category?

4 MR. LIOUNIS: I'm sorry. I'm still -- just one last
5 note on the sophisticated --

6 THE COURT: Yes?

7 MR. LIOUNIS: During that trial, there was not one
8 individual with who came into that courtroom that proved that
9 there was any kind of deal to conspire to defraud or anything
10 like that, which would even relate to the sophisticated means
11 of those packages or anything that was just told. There was no
12 knowledge of any kind of evidence or testimony --

13 THE COURT: Your objection is noted, Mr. Liounis.

14 MR. LIOUNIS: In other words, why is that person
15 getting sophisticated means if what the trial evidence proved
16 doesn't prove that he had anything to do with any of that, that
17 even a brochure was sent out or anything?

18 THE COURT: That person being who, you? Is that it?

19 MR. LIOUNIS: No, I'm not saying that.

20 THE COURT: Who?

21 MR. LIOUNIS: Mark Anderson.

22 THE COURT: Well --

23 MR. LIOUNIS: I'm speaking in third person, Your
24 Honor, because it's not me.

25 THE COURT: There was no proof that Mark Anderson did

1 it? Is that the idea?

2 MR. LIOUNIS: What I'm saying is there was no evidence
3 introduced at trial that proves there was any kind of
4 sophisticated means as far as knowledge of that individual,
5 that cold caller. In fact, there's even evidence showing where
6 there are people who did ask the person for funds back and
7 there were full refunds made. There was dividends paid. There
8 were things that were done --

9 THE COURT: Are you saying here now, Mr. Liounis, that
10 there were full refunds made?

11 MR. LIOUNIS: I have -- I have --

12 THE COURT: Excuse me. Is that what you're saying?

13 MR. LIOUNIS: I have proof of it that the government
14 gave me, yes.

15 THE COURT: And you are telling me that there was a
16 full refund made to Arthur Zahler of over a hundred thousand
17 dollars?

18 MR. LIOUNIS: I didn't say that.

19 THE COURT: Are you telling me that? That there was a
20 --

21 MR. LIOUNIS: I didn't say that.

22 THE COURT: -- full refund made to Mr. Nissen's
23 father?

24 MR. LIOUNIS: I can't tell you that. I can only tell
25 you what's in the records here.

1 THE COURT: But Mr. Liounis --

2 MR. LIOUNIS: There were individuals who were paid in
3 full. They did get dividends. And as you can clearly see
4 during the trial, there's no link whatsoever of any kind of
5 funds linking the person, Mark Anderson, to any funds that
6 were -- that were part of this scheme at all.

7 THE COURT: All right, Mr. Liounis. I've made a
8 determination with respect to that. Now let's move on.

9 What is your objection to the criminal history
10 category which is referred to in this pre-sentence report?

11 MR. LIOUNIS: My objection to that is, you have
12 mentioned --

13 THE COURT: Never physically threatened anyone?

14 MR. LIOUNIS: Where are we? The criminal history part
15 first. Can I address the first part first?

16 THE COURT: Surely.

17 MR. LIOUNIS: Okay. The criminal history part, I had
18 two cases in SD New York, and those cases -- one was in Nevada
19 and one was in the Southern District of New York. When I pled
20 guilty, it was agreed upon that that would be grouped under one
21 felony and one plea, and that's the way the plea agreement read
22 and that's the way I was sentenced.

23 I did have an issue where there was a bank larceny,
24 which is also an SD New York case, and I was given a
25 misdemeanor for that case in 2007, and that had to do with a

1 completely different Honorable Judge Lawrence McKenna.

2 My criminal history prior to this conviction, I am
3 category one with a misdemeanor and nothing else. That's why I
4 asked the government if they could give me a copy of my plea
5 during the last session.

6 THE COURT: Does the government want to respond to
7 that?

8 MR. LERER: Your Honor, the PSR at paragraph 68 groups
9 the two Southern District felonies as only one offense for the
10 purpose of assigning three points. The misdemeanor is
11 separate, is assigned a separate two points. All the
12 transcripts that the defendant asked were provided both to the
13 defendant and to the Court by the mail.

14 MR. LIOUNIS: I didn't get the plea. I apologize. I
15 didn't receive any plea agreements that I did ask for.

16 MR. LERER: The plea -- the transcripts were provided.
17 The government was not able to obtain copies of the plea
18 agreements.

19 MR. LIOUNIS: Well, in those plea agreements, it's
20 made very clear, Your Honor. That's why I was asking for them,
21 that they were grouped under one felony.

22 THE COURT: Mr. Liounis, they were grouped for
23 purposes of sentencing. Both the Nevada indictment and the
24 Southern District indictment were grouped for purposes of
25 sentencing.

1 Now, let me read to you, Mr. Liounis, from the
2 transcript. This is before Magistrate Judge Maas, Mr. Liounis,
3 tell me what you did that makes you guilty of a conspiracy
4 charged in the New York indictment?"

5 This is a transcript. I think it's October 20th,
6 2000.

7 This is Mr. Liounis responding to that inquiry: "From
8 May through December, 1998, I illegally agreed with others to
9 manipulate the market in TLC stock through a brokerage house
10 known as La Jolla Capital. As part of our agreement, otherwise
11 gained -- others gained control of the float of the stock. I
12 and others then received payments to induce us to cause others,
13 including stockbrokers, to sell TLC to their customers. These
14 brokers were paid by me and others to cause the brokers to sell
15 the stock to their customers. I knew that the brokers would
16 not disclose the fact of these payments to their customers. I
17 made a telephone call to a broker at Sharp Capital, located in
18 Manhattan, to further our criminal conduct. Instead of
19 criminal conduct, I would like to replace that with I wanted
20 them to stop shorting the company. That's why they were
21 called." That that was your plea to the Southern District
22 indictment.

23 Now, with respect to the Nevada indictment, this was
24 your allocution: "From November 1995 through 1997, I agreed
25 with others to manipulate the prices of Sports Vision

1 Technologies and the SureQuest Systems through a brokerage
2 house known as La Jolla Capital. In furtherance of this
3 illegal agreement, I agreed with others to pay brokers money to
4 cause them to sell the stock to their customers, knowing that
5 the brokers would not disclose those payments. I also agreed
6 with others to conceal the illegal monies we received by
7 creating false bank accounts. Wire transfers were used in
8 these dealings, as well. The money was supposed to be sent
9 from Nevada to people in New York. When payment wasn't made,
10 it was foreseeable to me that the people seeking to collect the
11 money might use force, if necessary. I later learned that
12 physical force, in fact, was used to try to collect the money
13 owed and exploited the fact to recover the money owed by making
14 calls."

15 Those were pleas of guilty to two separate and
16 distinct indictments, two separate and distinct crimes which
17 were grouped together for purposes of sentencing only, and you
18 were sentenced to a period of 87 months on both crimes
19 combined, but they were two separate and distinct indictments
20 and two separate crimes. I have just read your confession to
21 having committed those crimes.

22 Now, you also allocuted to relevant conduct: "From the
23 spring of 1998 into 1999, I agreed with the owner of Saber and
24 others to raise money for the company by doing a private
25 placement of stock. We all agreed that a portion of the money

1 raised would be paid to me and others, and then I would use
2 some, among other things, that money to make payments to
3 brokers who were selling the stock to their clients, knowing
4 that such payments were not being disclosed." That was another
5 allocution you made.

6 So with respect to whether the criminal history
7 category was or was not correct, your objection to that is
8 denied.

9 I don't want to comment on your observation that a
10 prosecutor stated at sentencing that you were one of the few
11 who didn't mislead clients about the stock they were buying. I
12 read your sentencing minutes carefully, I thought, but saw no
13 reference to that.

14 You also indicated that you paid your restitution,
15 that you were compliant with supervision. You maintained
16 employment throughout supervised release. There's no bearing
17 on sentencing one way or the other, and I won't comment to
18 that.

19 And you're objecting to a criminal contempt finding
20 that I made in paragraph 70. That's a matter you can raise on
21 appeal.

22 MR. LIOUNIS: Your Honor, before you go any further,
23 I'm sorry. I was trying to comment on paragraph 67 and 68,
24 what you did, what you just mentioned. I think it's important
25 to note that, yes, what I allocuted -- I plead guilty. I did

1 not go to trial. I allocuted and I admitted my guilt to things
2 that I have done. Okay? Which is a big difference from going
3 to trial.

4 Very important on that criminal history part,
5 everything was combined under one, as you say, for sentencing
6 purposes, but it was all linked. It was ongoing criminal
7 activity. There wasn't any lack. It was the same
8 participants, same people, same everything, and it was
9 considered ongoing criminal activity.

10 As far as what you read with the violence being
11 foreseeable, you also mentioned something very, very important
12 that I later learned, and I have a transcript here that I'd
13 like to read into the record of the government's version along
14 with mine at sentencing which relates to "later learned,"
15 because I didn't know about the violence until afterwards,
16 after it was committed. And it's made very clearly, that that
17 violence could have happened to me as easily as anyone else,
18 which I will leave at that.

19 But I want to read into the record -- first, I'd like
20 to say with all -- after my attorney, Michael Bachner described
21 into the record how that violence had absolutely nothing to do
22 with me. I did not participate in it. The violence was not
23 done under my discretion -- excuse me, my order. Again, I
24 later learned about it, which is in complete contradiction to
25 what's in this PSR today.

1 But here's what the government said: "I discussed
2 this with Mr. Bachner." This is AUSA Jamie Kogan, from
3 Southern District of New York. "Prior to our appearance before
4 the Court, and there is no direct evidence on Mr. Culkin, Mr.
5 Liounis and Mr. Rizzo's direction of these activities." She's
6 referring to the violence.

7 "I think the way Mr. Bachner summarized the evidence
8 is equally fair inference so that -- equally fair inference, so
9 the government will have no objection."

10 THE COURT: All right, Mr. Liounis. Your objection to
11 your criminal history category as is reflected in the
12 pre-sentence report is an objection which is denied.

13 Then in paragraphs 71 to 73 -- and by the way, with
14 respect to your last reading from the transcript -- I don't
15 have it before me at the moment -- but Mr. Bachner very, very
16 clearly said during the course of that sentencing proceeding
17 that when you told the people here in New York that they
18 weren't getting their money because the people in Nevada were
19 not giving money to you so that you can return it to them, that
20 it was foreseeable, knowing who it was that you were telling
21 this to, that they might -- it was foreseeable that they might
22 use violence for the purpose of collecting the money from the
23 Nevada people that should have gone to you and from you to
24 them. Mr. Bachner clearly said that it was foreseeable to you.
25 Apparently, the people that you were passing this information

1 onto, it sounded to me like it was people who had some serious
2 connection to organized crime.

3 Now, let me move on.

4 MR. LIOUNIS: Well, I just want to make one very
5 important note.

6 THE COURT: Yes?

7 MR. LIOUNIS: As I made very clear, I was in the same
8 circle as the victims, that anything -- the same thing that
9 happened to them could have happened to me.

10 THE COURT: Okay.

11 MR. LIOUNIS: Your Honor, this has to be changed in
12 the PSR. I'm not a violent offender. I never hurt anyone.
13 It's made very clear here in the last PSR that I did not beat
14 anyone up. I didn't send anybody.

15 And more importantly, the individuals who did do it,
16 again, whatever they did it for, it's their reasons. It
17 wasn't -- I had nothing to do with that, nothing. The point
18 being that I could have been beaten up just as easily. I could
19 have been just as easily beaten up, and I should not be on the
20 other side of that fence, when I just as easily could have been
21 the victim. Monies were asked of me. I didn't have it.
22 That's it. It's not -- I didn't tell anyone, go and get it. I
23 didn't do any of that.

24 The PSR that I was handed by the government in the
25 Eastern District of New York, I mean, it's stating that I went

1 there and beat these people up. I mean, this is so far from
2 this truth, it has to be taken out. It has to be taken out
3 because it's not true. And it will affect my placement. It
4 will affect any program and it will affect everything, and that
5 really needs to be -- and that's why we have this transcript to
6 prove it.

7 THE COURT: Where -- what paragraph are you talking
8 about now?

9 MR. LIOUNIS: You want to give him my copy?

10 MR. LERER: Paragraph 68, Your Honor.

11 THE COURT: Yes.

12 MR. LIOUNIS: Look at the wording.

13 MR. LERER: I believe it's the last paragraph, the
14 last sentence of the first paragraph of 68, which is on page
15 20, that --

16 THE COURT: Okay.

17 MR. LERER: -- the defendant is referring to, Your
18 Honor, beginning, "On several occasions."

19 THE COURT: All right. That should be changed. "On
20 several occasions in order to further the success of this
21 scheme, the defendant and two other conspirators physically
22 threatened other members of the conspiracy." That's not
23 correct.

24 The transcript of that sentencing proceeding, as I've
25 indicated, it was agreed by the Assistant U. S. Attorney and

1 defense counsel and defense counsel very clearly indicated for
2 purposes of that proceeding that it was foreseeable to
3 Mr. Liounis that the information that he passed on to the
4 people in New York that he wasn't paid from the people in
5 Nevada, that passing that information on to those people was
6 foreseeable that that might lead to violence. That's what the
7 transcript of that proceeding says.

8 So to refer back to this sentence or -- you can take
9 that entire sentence out: "On several occasions, in order to
10 further the success of the scheme." That's inaccurate.
11 Eliminate that sentence.

12 MR. MARSIGLIANO: Yes, Your Honor.

13 MR. LIOUNIS: Your Honor, how about the part where it
14 says that I was -- I physically -- it says that I physically
15 did the beatings? It's in there, somewhere in there.

16 MR. LERER: Your Honor, it's the same sentence that
17 the Court just removed.

18 MR. LIOUNIS: I don't have a copy.

19 MR. LERER: (Shows document to the defendant.)

20 THE COURT: All right. The rest of this, that you're
21 not Mark Anderson, that there were no MDC disciplinary
22 proceedings -- there was, it seems to me, one incident at the
23 MDC when you refused to work, but you said that wasn't the case
24 at all. It had something to do with special circumstances.

25 MR. LIOUNIS: I was changing cells.

1 THE COURT: Again, it has no bearing on sentencing, so
2 I'm happy to delete that.

3 Again, your indictment was void. Mr. Gold tried to
4 deal with the presumption of innocence. It's an ineffective
5 assistance counsel argument you can make in another forum.

6 The fact that you should not be on supervised release,
7 and that is meritless. Your objection to the pre-sentence
8 report, that if it's there is, it's denied.

9 And you're objecting to all fines and your objecting
10 to restitution, which we did.

11 All those things aside, we have a Guidelines advisory
12 of 292 to 365?

13 MR. SPECTOR: Yes, Your Honor.

14 THE COURT: As far as the calculation is concerned,
15 assuming, Mr. Liounis, as you must, because I've made findings
16 to that effect --

17 MR. LIOUNIS: Thank you.

18 THE COURT: -- but there's a two-level enhancement for
19 obstruction of justice. There's a two-level enhancement for
20 sophisticated means. That's also an enhancement because the
21 crime was committed while he was on supervised release in the
22 Southern District.

23 I believe that was also part of the Guideline
24 calculations, is that correct?

25 MR. SPECTOR: Yes, Your Honor.

1 THE COURT: All that being so, that these are the only
2 objections to the pre-sentence report, anyway, that have any --
3 the Guidelines need to be corrected and I adopt the
4 pre-sentence report with that one sentence.

5 By the way, there was a recent submission by the
6 Probation Department, dated August 20th, correcting some
7 figures, some numbers. Let me make those changes now.

8 This is an addendum to the revised pre-sentence report
9 that was prepared on August 18th. "The following is provided
10 to the Court to advise the correction to the loss amounts
11 listed in the pre-sentence report. Specifically, the
12 pre-sentence report contains a typo in that the listed loss
13 amount of \$4,293,803 for the Grayson Hewitt scheme as noted in
14 paragraphs 28, 29 and 119 should actually be \$4,380,803. The
15 resulting total loss amount is consequently amended to reflect
16 the increased Grayson Hewitt loss amount to \$15,440,403. As a
17 result of these changes, paragraphs 28 through 33, 44, 51 and
18 119 are amended accordingly. Those changes have no effect on
19 the sentencing Guidelines calculation or on the Probation
20 Department's sentencing recommendation."

21 I've made those changes in the pre-sentence report.
22 I've changed the figures of -- as indicated here, from
23 4,293,000 to 4,380,803.

24 MR. LIOUNIS: Your Honor --

25 THE COURT: The next thing we're dealing with --

1 MR. LIOUNIS: I'm sorry. I would like to ask a few
2 questions about that. And I'm objecting to those corrections.
3 I was not -- I was not handed a victim list. I was not handed
4 a breakdown of the loss amount, and if I'm reading this
5 correctly, am I being told that the Grayson Hewitt loss amount
6 is a total of 15 million? Am I reading this wrong?

7 THE COURT: You are. You're not reading it wrong. It
8 says that that, but that's including I think the relevant
9 conduct losses. The only losses that you're responsible for
10 are the losses which resulted from the crime for which you were
11 convicted, which was the Grayson Hewitt scheme, and the
12 restitution which is claimed to be due to the victims of that
13 scheme amount to \$4,380,803.

14 MR. LIOUNIS: Okay. But the way I'm reading this, it
15 is stating that there is -- again, this has to be clarified,
16 because we have all kind of numbers here. We have a total
17 calculation of level 27. I need to know what is this 27?
18 Where did this come from? How is the Grayson Hewitt
19 15 million? If it's not related, why is it under Grayson
20 Hewitt? I mean, I thought that's what this hearing is about.

21 Again, I was not given a victim list or a breakdown of
22 any loss amount by the government, and I'm objecting. I'm
23 objecting to the level 6 becoming level 7 as a base offense
24 level. I'm objecting to 27 levels for the Grayson Hewitt.
25 Please, show me where it's 27 levels for the Grayson Hewitt.

1 This is besides the two levels of obstruction and sophisticated
2 means. I'm talking about the base offense level came out to 34
3 levels for Grayson Hewitt, which is less than 50 victims, which
4 is nowhere near 5 million, and I'm objecting and I think that
5 needs to be clarified prior to sentencing.

6 THE COURT: Mr. Lerer?

7 MR. LERER: Your Honor, it's sometimes hard to
8 understand what the defendant is saying. I just gave him a
9 copy of the addendum and -- which I'm going to take back for a
10 moment.

11 I think he's just misreading one of the sentences, the
12 sentence is -- the defendant is. The sentence says, "The
13 resulting total loss amount is consequently amended to reflect
14 the increased Grayson Hewitt loss amount to \$15,440,403."

15 THE COURT: We're past that?

16 MR. LERER: Yes. And I think what the defendant is
17 possibly confused about, possibly just making hay out of it
18 is not -- the plain reading of this is that the total loss
19 amount including the other schemes is the \$15 million figure.

20 THE COURT: We're past that?

21 MR. LERER: We're past that. His other complaint --

22 THE COURT: I told him that, Mr. Lerer.

23 MR. LERER: I'm sorry, Your Honor.

24 As to his other points, I think he continues to deny
25 involvement with the scheme. The government sent a letter to

1 the Court with a copy to the defendant on August 15th, 2014,
2 detailing proof of his involvement in the other schemes.

3 Beyond that, I don't know what he's saying.

4 THE COURT: He's talking about a victim list.

5 MR. LERER: Oh.

6 THE COURT: And the calculation of \$4,380,803.

7 MR. LERER: The defendant been repeatedly provided --
8 the Court has been and the defendant with a redacted list as to
9 those figures.

10 MR. LIOUNIS: I didn't receive anything, zero.

11 THE COURT: All right. Let's leave that for now.

12 MR. LIOUNIS: Okay.

13 THE COURT: We'll get back to that.

14 MR. LIOUNIS: And also, again, I am objecting to the
15 level 34 base offense level, where these -- of the PSR. It's
16 level 27, and a base level of seven points totals 34 points.
17 And again, I would -- I am objecting to that and I would --
18 that's where the victim list and the loss -- the loss
19 calculations which have not been provided become very important
20 as to how I am responsible for 34 levels.

21 THE COURT: We'll have to deal with that and provide
22 that if he says he's never received it. There is a victims
23 list. There were 61 victims, as I recall. Their names were
24 provided to the Court, but because of concerns for their
25 security and their privacy and other matters, I think the

1 matter was filed -- that list was filed under seal.

2 Is that correct?

3 MR. LERER: I think that's correct, Your Honor.

4 THE COURT: Yes. And so if Mr. Liounis hasn't seen
5 it, hasn't seen that list or hasn't seen how it was that that
6 number was arrived at, it ought to be made available. That
7 information should be made available.

8 MR. LERER: Your Honor, I'm looking at the filing.
9 Certainly, as to the Rockford loss, he was provided. As to
10 Grayson Hewitt, we can provide him with the list with the
11 victims' names redacted.

12 MR. LIOUNIS: What was I provided for the Rockford?
13 I'm sorry. Could you clarify that?

14 MR. LERER: Would the Court like me to clarify that?

15 THE COURT: Go ahead.

16 MR. LERER: For the Rockford loss, the defendant was
17 provided with a spreadsheet detailing the Rockford losses and
18 the names and contact information of the victims, who are
19 redacted.

20 For the Grayson Hewitt, I think that they may have
21 only been sent to the Court, so we can provide the -- we can
22 provide the defendant with the equivalent list for Grayson
23 Hewitt. That's not a problem. In fact, it could be -- yes.
24 That's not a problem, Your Honor.

25 THE COURT: That is document 50 or 51, was it?

1 MR. LERER: It was, Your Honor.

2 THE COURT: Is that right?

3 MR. LERER: Yes.

4 And they were -- and moreover, Your Honor is correct.
5 They were admitted into evidence at the trial. The defendant
6 saw them then -- thank you for reminding me, Your Honor --
7 Government Exhibits 50 and 51.

8 THE COURT: Were those provided to Mr. Liounis?

9 MR. LIOUNIS: (Shakes head negatively).

10 MR. LERER: (Hands to defendant.)

11 They have been now. They were provided to him at the
12 trial when they were trial exhibits, and again, at the moment.

13 MR. LIOUNIS: (Peruses document.)

14 THE COURT: All right. I think we've dealt with the
15 objections to the pre-sentence report.

16 MR. LIOUNIS: Well, Your Honor --

17 THE COURT: So we're only --

18 MR. LIOUNIS: As far as this is -- this is for the
19 victims, as far as the loss amount, again, 15 million, I
20 understand where they're coming from on that 15 million. Could
21 the government -- could the government maybe alert the Court or
22 myself as to how much the fraud -- how much the loss amount was
23 in the Rockford scheme?

24 MR. SPECTOR: Your Honor, it's set forth in the PSR.
25 Paragraph 28, \$11 million.

1 MR. LERER: And Your Honor, there was provided to the
2 Court and to the defendant a spreadsheet with specific amounts
3 enumerated. That was Exhibit 5 of the government's letter of
4 August 15th to Your Honor.

5 MR. LIOUNIS: I think that that number of 11 million,
6 Your Honor, is contradicting to what the government handed me
7 at the beginning of the case. I have an affidavit from
8 Ms. Purnavel, a U. S. Postal Inspector Purnavel, which states
9 that the Rockford losses were somewhere close to 3 million.
10 Where is this 11 million coming from?

11 MR. LERER: Your Honor, I'll just state again, the
12 government filed a letter on August 15th.

13 THE COURT: Was this affidavit --

14 MR. SPECTOR: Your Honor, I believe he's referring to
15 the Complaint filed in the case, and paragraph 15 of the
16 Complaint states that approximately two hundred Rockford Group
17 investors in the United States and Canada invested over
18 \$11 million with the Rockford Group.

19 MR. LIOUNIS: That's not what I'm referring to. I
20 have -- I have it. I could provide it to the Court.

21 MR. LERER: Your Honor, just to further make the
22 record, in the government's August 15th letter, attachment six
23 was a declaration of the SEC referring to \$11 million in losses
24 in the Rockford scheme.

25 MR. LIOUNIS: I believe that has to do with -- oops.

1 Excuse me.

2 I believe that has to do with quite a few other
3 companies and entities, and I believe that they were grouping
4 all of that under the Rockford Group. Again, I have an
5 affidavit from Ms. Purnavel, which states exactly what the loss
6 amount is for the Rockford. It's not \$11 million and it's not
7 two hundred victims. This needs to be clarified, Your Honor.
8 And if I don't have the proper document with me today, I assure
9 you, I'll bring it the next time I'm in court. I do have that.

10 As I said, we need a breakdown of where these losses
11 and victims are for those reasons, because these numbers are
12 conflicting.

13 THE COURT: Mr. Liounis, there are just two numbers
14 which are not conflicting. There is a loss arising out of
15 Grayson Hewitt scam of \$4,380,803, and that is the amount of
16 restitution which is sought.

17 There is a list of 61 victims. I think it's 61. The
18 names of the loss or the amount of the loss I believe suffered
19 by each of those victims is contained in the document which
20 you've submitted, whether it's docket entry 50 or 51, I don't
21 know. But there is a list --

22 MR. LERER: Yes, sir.

23 THE COURT: -- of the Grayson Hewitt victims and the
24 amount which each victim lost.

25 Is that right, Mr. Lerer?

1 MR. LERER: Yes. That's Government Exhibits 50 and 51
2 from trial, Your Honor.

3 THE COURT: And the losses suffered by those 61
4 victims amount to \$4,380,803, is that right? Is that the
5 number?

6 MR. MARSIGLIANO: Yes, Your Honor.

7 THE COURT: That's what it is?

8 MR. LERER: Yes, sir.

9 THE COURT: And that's the list of the 61 victims and
10 the amount of their loss.

11 With respect to the Rockford Group, the loss which is
12 claimed to have been sustained by the Rockford Group is
13 11 million some-odd dollars, whatever the number is. I think
14 it's in paragraph 28, is it?

15 MR. SPECTOR: Yes, Your Honor.

16 THE COURT: There's a little chart on page 13. The
17 number of victims of the UBS scheme of \$59,600. There are
18 canceled checks which have been provided to Mr. Liounis, have
19 they?

20 MR. LERER: Yes, Your Honor, attached.

21 THE COURT: I thought there were four of them --

22 MR. LERER: Three, Your Honor. Yes.

23 THE COURT: -- the UBS scheme which add up to \$59,600.
24 And then the Rockford Group is indicated at least two hundred
25 victims, \$11 million. The case agent advised that the exact

1 amount of loss associated with this scheme is not able to be
2 determined due to the extent, duration and complexity of the
3 scheme, but amounts to approximately \$11 million. That's the
4 information, Mr. Liounis, and you'll have -- you have the list
5 of victims of Grayson Hewitt.

6 And just so that you're clear, you're not being asked
7 to make restitution in the amount of \$15 million. You'll be
8 ordered to make restitution in the amount of \$4,380,803.

9 I believe there's a stipulation that you entered into
10 in the Southern District cases, agreeing to restitution
11 somewhere in the neighborhood of a million or maybe more
12 dollars.

13 MR. LIOUNIS: (Nods head affirmatively.)

14 THE COURT: You stipulated to that amount, as I recall
15 it, having read the statement of a transcript of the Southern
16 District proceeding.

17 Now, with respect to your Fatico hearing --

18 And by the way, is the court reporter still capable of
19 moving her fingers? Okay.

20 With respect to the Fatico hearing that deals with
21 whether or not the Rockford and UBS schemes constitute relevant
22 conduct, the government has the burden of proof with respect to
23 that. Standard of proof is by a fair preponderance of the
24 evidence. The cases are pretty clear that live testimony isn't
25 necessary. Hearsay testimony is perfectly admissible.

1 And what does the government have to say to me by way
2 of proving that Rockford and UBS should be considered as
3 relevant conduct?

4 MR. LIOUNIS: Your Honor, I'm sorry to interrupt, but
5 this is the part where I'm not prepared for this because of
6 what I explained earlier.

7 I have -- I have substantial evidence that will
8 contradict whatever is being said about UBS and what's being
9 said about the Rockford, including notes, case law, exhibits.
10 I mean, I was working very hard to prepare for this.

11 And also, I would like to bring proof to this
12 courtroom showing that even the numbers are incorrect. I am
13 still objecting to that 11 million and two hundred victims,
14 even as relevant conduct. I understand that it's nothing to do
15 with restitution. It's still affects the overall number. It's
16 still affects it. And if I'm not mistaken, I think the Court
17 had mentioned that relevant conduct -- is that a two-level
18 enhancement?

19 I'm just saying, is it typically a two-level
20 enhancement? Because again, I have to be prepared for this,
21 this part of the hearing because it's appears it's not just --
22 it appears it's not just the two-level enhancement. It's two
23 levels and then it's worked into the 20 -- the level 34,
24 somehow it's worked in again.

25 I got to get these numbers correct as far as the

1 victims and the dollar amount. And like I said, I would like
2 to be prepared. And it was not my fault that I'm not prepared
3 today, that I could not print all of my -- all of my notes off
4 the computer, Your Honor. I should have a fair opportunity to
5 combat the preponderance of evidence standard that the
6 government has to prove.

7 THE COURT: Mr. Liounis, would you make an offer of
8 proof as to what it is that you would prove, assuming that we
9 would grant you a brief continuance with respect to what it is?
10 The burden would be on you to prove that the relevant conduct
11 assertion is incorrect. It's not warranted. What would your
12 offer of proof be? What is it that you propose to prove? What
13 are these cases and what is this information that you have?

14 MR. LIOUNIS: I have proof --

15 THE COURT: Yes?

16 MR. LIOUNIS: -- of victims themselves from these
17 schemes who have identified others as the person the government
18 maintains is Mark Anderson. I have -- I have -- I have a lot
19 of proof. I have a lot of exhibits besides that. I just can't
20 think of everything right this second.

21 I also have case law, Second Circuit cases and case
22 law which specifically identify characteristics of the offenses
23 and how they have nothing to do with me, and I would be able to
24 put up some type of battle with the government that the
25 relevant conduct should not be charged to Peter Liounis at all.

1 I have case law, a lot of case law, and I'm able to explain it
2 with my notes better. I don't have them in front of me. I'm
3 not a lawyer. I really need these notes.

4 THE COURT: And --

5 MR. LIOUNIS: I can give you the officer's name who
6 tried to get the papers. For two days, he tried. His name is
7 Officer Levin. You can ask him. For two days, I begged him to
8 get them to do it, so I could be ready.

9 THE COURT: Two things. I think that with respect to
10 the restitution amount, certainly, at the very least,
11 Mr. Liounis should have an opportunity to look at those
12 documents or that exhibit which he hasn't seen it before and
13 let him add up the numbers in some way and disprove it. And so
14 perhaps a brief continuance would be appropriate.

15 I'm giving you just one, Mr. Liounis.

16 With respect to that, there was a lot of evidence
17 during the course of this trial with respect to loss and with
18 respect to victims. You've been given -- now, you have been
19 given a list of all those victims. You have been given a list
20 of the losses which have been sustained by each of those
21 victims, which add up to I believe \$4,380,803, and I'm told
22 that you haven't seen that before, so I'll give you an
23 opportunity to do that. I'll give you an opportunity to do
24 whatever else you think is relevant on the issue of relevant
25 conduct.

1 But suppose in the interest of time and in order to
2 give Mr. Liounis an understanding --

3 It would be nice if counsel would just pay attention
4 to what it is that I'm saying.

5 MR. LERER: I apologize. I'm sorry, Your Honor. I
6 was paying attention to what you're saying. I apologize if it
7 didn't appear so.

8 THE COURT: I think it would be useful to have the
9 government present its proof with respect to relevant conduct,
10 so that Mr. Liounis would have an understanding of what it is
11 that the government's proof of relevant conduct is, what it
12 amounts to, and he'll then have an opportunity to know whether
13 whatever it is that he has to present to rebut or to establish
14 that that relevant conduct isn't appropriate, he would have
15 some basis for responding to it.

16 So why don't we go ahead and do that? Why don't we
17 take -- I think we ought to take a brief recess. Do you
18 have -- how long do you think you're going to take on that?

19 MR. LERER: Your Honor, the government filed a letter
20 that it sent to the Court on August 15th and to the defendant.
21 The government does not intend to put on any testimony, but
22 just refer to that letter.

23 THE COURT: I understand. I understand.

24 MR. LERER: I think it would take two minutes.

25 THE COURT: Mr. Liounis, did you get that letter? Did

1 you get it?

2 MR. LIOUNIS: I'm not sure. Could I take a look at it
3 and I'll tell you if I did?

4 THE COURT: It's a letter and attached to it are all
5 the brochures, the Grayson Hewitt brochures, the Rockford
6 brochures, pictures, all of that.

7 I think that's the document you're referring to, is
8 it, Mr. Lerer?

9 MR. LERER: Yes, sir.

10 THE COURT: Did you receive it?

11 MR. LIOUNIS: I don't have that. I don't have that.

12 THE COURT: Well, let's put this off for a few days.

13 It seems to me --

14 MR. LIOUNIS: I got two items yesterday in the mail.

15 THE COURT: What did you get?

16 MR. LIOUNIS: They were these transcripts that I read
17 to the Court today.

18 THE COURT: Yes. All right. You never received this
19 relevant conduct submission that the government filed?

20 MR. LIOUNIS: I'm looking at it. I don't believe so.

21 THE COURT: If you received it, Mr. Liounis, you would
22 know it.

23 MR. LIOUNIS: I don't believe so, no.

24 THE COURT: You don't think you've ever seen that
25 before, is that the idea?

1 MR. LIOUNIS: I'm not positive. I'm not positive.
2 Could I look at it?

3 THE COURT: Sure.

4 MR. LERER: Your Honor, there's -- a portion of this
5 is unredacted victim names. I'll turn the pages, but I can't
6 --

7 THE COURT: You don't need the names. Why don't you
8 just show him the brochures. That's what you're dealing with
9 essentially on the relevant conduct.

10 MR. LIOUNIS: I didn't get this. I can tell you right
11 now, I didn't get it, right from the first exhibit. I didn't
12 get that.

13 THE COURT: Let's have a little continuance. Today is
14 what, Wednesday?

15 THE CLERK: (Nods head affirmatively.)

16 MR. LERER: (Confers with the defendant.)

17 THE COURT: Put it off for Monday of next week.
18 What's the problem?

19 MR. LERER: The defendant asked me a question and I
20 told him it was in that letter.

21 THE COURT: What else does he have -- that you submit
22 that he doesn't have?

23 MR. LERER: I wouldn't know, because I FedExed the
24 documents to him, so he should have them.

25 THE COURT: When did you do that?

1 MR. LERER: I -- when I wrote -- with the earlier
2 documents, I sent regular mail the day that I filed them with
3 the Court. This document, I would have FedExed to him the day
4 I filed it with the Court.

5 THE COURT: All right. So there are two things that
6 he ought to have in order to make some intelligent response.
7 He should have that Grayson Hewitt list of victims. I think
8 there were 61, and I think that list has annexed to the name of
9 each victim the amount of loss that each victim sustained, and
10 I think those losses should add up to \$4,380,803.

11 And then so far as relevant conduct is concerned, you
12 have the brochures. You can redact the witnesses' names, if
13 that's appropriate. And you indicate to me as why it's
14 appropriate to redact those names, the reason for it, and let
15 Mr. Liounis look at that.

16 I also want to make it very plain, Mr. Liounis, that I
17 think there is no necessity that the government prove the
18 amount of loss precisely. Approximation is perfectly
19 acceptable.

20 MR. LIOUNIS: What is that --

21 THE COURT: Just so that you're clear about that.

22 MR. LIOUNIS: I am, but what if the approximate number
23 is off by eight or nine million dollars? I just don't see that
24 being in the same ballpark.

25 THE COURT: We'll deal with that on the next day, and

1 that will be the last continuance we're going to have with
2 respect to this proceeding.

3 Now, is there any other information that Mr. Liounis
4 should have --

5 MR. LERER: I don't think so.

6 THE COURT: -- that's relevant for the purpose of this
7 proceeding?

8 MR. LERER: I don't believe so.

9 Your Honor, I just want to state for the record, so
10 everyone understands what I am going to provide to the
11 defendant and how I'm going to provide it --

12 First, I would ask, I think, if the marshals could
13 hold this defendant for the last bus, because we can provide
14 these documents to him today.

15 THE COURT: Okay.

16 MR. LERER: And what I'm going to provide is a copy of
17 the August 15th filing, which contains the brochures and it
18 contains the Rockford list with the names of the victims
19 redacted.

20 And then -- I'm sorry, Your Honor?

21 THE COURT: All right. Well, that's obviously
22 crucial.

23 MR. LERER: Right.

24 THE COURT: Those brochures are essentially the
25 relevant conduct proof that you're going to be offering --

1 MR. LERER: Right.

2 THE COURT: -- as I surmise?

3 MR. LERER: Yes, sir.

4 And then I'm also going to provide -- the defendant's
5 already been provided with Government Exhibits 50 and 51, which
6 detail the Grayson Hewitt losses, and there is an additional
7 spreadsheet of Grayson Hewitt losses which I will provide to
8 the defendant today. I just want to make sure, because I know
9 what's coming next from this defendant.

10 Government Exhibits 50 and 51, those are compiled from
11 monies going into a Chase account. That figure is a little bit
12 smaller than the total Grayson Hewitt loss amount because as
13 the Court will remember, there were other funds that did not go
14 to Chase, but went directly overseas. And so when the
15 defendant makes that objection, you'll know the answer in
16 advance, Your Honor.

17 THE COURT: I think there is a plenty of evidence in
18 the transcript with respect to the losses by the witnesses who
19 testified. As I recall, I think Mr. Zahler testified to a loss
20 of approximately a hundred thousand dollars. I think Mr.
21 Cuthbertson, was it?

22 MR. LERER: Yes. That's correct.

23 THE COURT: -- testified to a loss which was in excess
24 of a million dollars, as I recall it?

25 MR. LERER: Yes, sir.

1 MR. LIOUNIS: Your Honor, before we depart, again,
2 because I'm challenging the Rockford -- the Rockford amount
3 based on the evidence I'll provide next time we're in court, I
4 wonder if I could get an unredacted copy of those witnesses --
5 of those victims for the Rockford, because of the tremendous,
6 tremendous difference as far as loss amount from the proof, the
7 factual proof I'm going to present as compared to the
8 unredacted proof of two hundred victims and 11 million? That's
9 number one.

10 And number two, I still haven't received any list from
11 the UBS victims or loss amount from the UBS victims --

12 THE COURT: Excuse me --

13 MR. LIOUNIS: -- as relevant conduct.

14 THE COURT: With respect to UBS, there are four
15 canceled checks or documents which have been attached to an
16 exhibit which the government provided. You haven't seen those?

17 MR. LIOUNIS: No.

18 THE COURT: Those four canceled photocopies, I
19 believe, of checks. There is another check for some wire
20 transfers, I believe -- which would add up to 59,000 some-odd
21 dollars.

22 MR. LIOUNIS: Yes.

23 THE COURT: I don't remember what exhibit it was
24 attached to.

25 MR. LERER: Yes. It's Exhibit 4.

1 Your Honor, again. It's three checks. I don't want
2 the defendant to think he's been shorted a check.

3 THE COURT: Is it three?

4 MR. LERER: Three, Your Honor.

5 THE COURT: They add up to 59,000?

6 MR. LERER: They do, Your Honor.

7 THE COURT: As I recall, I thought there were four.

8 MR. LIOUNIS: And those victims -- so there's three
9 victims from the USB? Is that what you're saying?

10 THE COURT: All right. We're finished here. You can
11 deal with Mr. Liounis and give him that that information.

12 MR. LERER: Yes, sir.

13 THE COURT: Let me have a date.

14 THE CLERK: August 28th, 10:30 a.m.

15 THE COURT: What day?

16 THE CLERK: August 28th.

17 MR. LERER: Your Honor, I'm not available on the 28th.
18 Could we do it sooner?

19 THE COURT: Okay. Sure.

20 How about the 27th?

21 THE CLERK: The 27th, at 11:30 a.m.

22 THE COURT: How's that?

23 MR. LERER: Your Honor, I'm sorry. Mr. Spector is not
24 available that day.

25 THE COURT: Why does Mr. Spector have to be here?

1 MR. LERER: Your Honor, Mr. Spector has a tremendous
2 knowledge of the case, being the investigating AUSA.

3 MR. SPECTOR: I could do the end of the day, if that's
4 possible, Your Honor.

5 THE COURT: All right. It's possible.

6 THE CLERK: August 27th at --

7 THE COURT: 2:30?

8 MR. LERER: I can't. I'm sorry. I have a commitment
9 from three to four on August 27th. I'm sorry, Your Honor.

10 THE CLERK: August 26th, at 12 noon.

11 PROBATION OFFICER that's fine.

12 MR. LERER: That would be perfect for the Court -- for
13 the government, Your Honor.

14 THE COURT: Mr. Spector?

15 MR. SPECTOR: That's fine. Yes. Thank you, Judge.

16 THE COURT: August 26th.

17 Give Mr. Liounis whatever it is that he should have.

18 MR. LERER: Yes, sir.

19 THE COURT: Okay? That's essentially all that's left
20 is that Fatico hearing. I think that the amount of restitution
21 I think is provided by the Grayson Hewitt list, and we can
22 proceed to sentencing on the 26th of August. Okay? Got it?

23 MR. LIOUNIS: Thank you.

24 MR. LERER: Thank you.

25 MR. SPECTOR: Thank you, Judge.

1 THE COURT: Marshals, would you keep him here until --

2 MR. LIOUNIS: So Your Honor, I won't be produced again
3 later?

4 THE COURT: What?

5 MR. LIOUNIS: Will I be produced again later or just
6 the next --

7 THE COURT: You're going to be produced on the 26th of
8 August at 12 noon, and we'll proceed to sentence on that day.

9 MR. LERER: Your Honor --

10 THE COURT: Wait a minute before we go.

11 MR. LERER: Your Honor, I apologize, we weren't --
12 they're not available. The agents are not available on the
13 26th. I apologize for not checking with them.

14 MR. SPECTOR: The next day the following week?

15 THE CLERK: Monday the 25th of August at 11 a.m.

16 MR. LERER: The postal inspector, Ms. Purnavel is out
17 all of next week.

18 THE COURT: Why is she needed? Is she needed for any
19 purpose?

20 MR. SPECTOR: Judge, it's useful for us to have the
21 agents available in case something that the defendant raises,
22 we need them to rebut.

23 THE COURT: Well, the only thing I think he raised as
24 far as Agent Purnavel is concerned is frankly, that she
25 submitted an affidavit saying that the loss is \$3 million.

1 Maybe you ought to clear that up. He says he has an affidavit
2 from her which says that.

3 MR. SPECTOR: We don't believe any such affidavit
4 exists, Your Honor.

5 MR. LERER: Or if something, I'm sure it is wildly
6 misconstrued.

7 THE COURT: All right. So what date are we dealing
8 with now?

9 MR. SPECTOR: Could we have one moment, Your Honor?

10 (Mr. Spector confers with Mr. Lerer.)

11 MR. LERER: Your Honor, how about this Friday, two
12 days from now? The defendant says he has all of his materials
13 already.

14 THE COURT: Fine.

15 MR. LIOUNIS: As long as they can print it for me, no
16 problem.

17 THE COURT: Fine. Friday, what time?

18 THE CLERK: 10:30 a. m.

19 MR. LERER: Can we do an -- that's fine. 10:30 a.m.
20 is fine.

21 THE COURT: Okay. Is that our request, Mr. Kessler?

22 THE CLERK: Yes, sir.

23 THE COURT: Friday at 10:30, I'll see you then. We'll
24 proceed, conclude this matter.

25 MR. LIOUNIS: Thank you.

1 MR. SPECTOR: Thank you, Judge.

2 MR. LERER: Thank you, Your Honor.

3 MR. LIOUNIS: Are you going to provide those documents
4 for me?

5 MR. LERER: Yes.

6 Your Honor, just one last thing, since we're going to
7 be back Friday, the documents that I did ask the government
8 for, when is the soonest I could have them, so I could have a
9 chance to look at them before Friday?

10 THE COURT: My understanding is that they are going to
11 give them to you today.

12 MR. LERER: Yes, sir.

13 MR. LIOUNIS: You're going to give them to me now?
14 Okay.

15 THE COURT: Okay?

16 MR. SPECTOR: Thank you, Judge.

17 MR. LERER: Thank you.

18 MR. LIOUNIS: Thank you.

19 THE COURT: See you at 10:30, Friday morning.

20 (Proceedings concluded.)
21
22
23
24
25

\$	27th [4] 62/20 62/21 63/6 63/9	accordingly [1] 42/18
\$11 [6] 47/25 48/18 48/23 49/6 50/25 51/3	28 [6] 2/5 7/11/14 42/14 42/17 47/25 50/19	account [1] 77 60/11
\$11 million [6] 47/25 48/18 48/23 49/6 50/25 51/3	28th [3] 62/14 62/16 62/17	accountable [1] 21/11
\$15 [2] 44/19 51/7	29 [4] 2/20 21/9 23/3 42/14	accounts [2] 28/1 34/7
\$15 million [1] 44/19	292 [1] 41/12	acknowledging [1] 5/13
\$15,440,403 [2] 42/16 44/14	2:30 [1] 63/7	Act [1] 4/7
\$3 [1] 64/25	3	acting [1] 3/6
\$3 million [1] 64/25	3 million [1] 48/9	activities [1] 37/5
\$4,293,803 [1] 42/13	30 [2] 21/15 27/9	activity [2] 36/7 36/9
\$4,380,803 [8] 42/14 43/13 45/6 49/15 50/4 51/8 54/21 58/10	31 [1] 21/15	actual [1] 7/1
\$400 [1] 28/24	33 [10] 2/13 2/20 3/7 3/10 9/1 11/12 11/16 22/13 23/3 42/17	actually [4] 22/2 22/2 28/3 42/14
\$400 million [1] 28/24	333 [1] 3/17	add [6] 50/23 54/13 54/21 58/10 61/20 62/5
\$59,600 [2] 50/17 50/23	34 [5] 44/2 45/15 45/16 45/20 52/23	added [1] 9/9
-	350 [1] 1/3	addendum [2] 42/8 44/9
-----x [2] 1/2 1/6	365 [1] 41/12	addition [1] 27/2
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